

# ORMD Straw Man

**Note:** There are several highlighted portions (in **green**) that have been provided by parties as discussed at the January workshop. We have incorporated those suggestions into the straw man and would like to get feedback on those portions as well. There are a couple of portions highlighted in **yellow** that are identical or very similar to the recent legislation concerning alternative gas suppliers (SB0171). Thank you!

## **1. Applicability**

Section 16-102 of the Public Utilities Act defines a small commercial retail customer as someone who consumes no more than 15,000 kilowatt-hours of electricity annually. We propose to make all sections of the straw man apply to those small commercial customers, in addition to residential customers. The exceptions would be sections I.1, I.3, and V, which we propose to apply to all customer classes. In addition, after substantial discussion at the last workshop, we propose to make section I.2 apply to residential and commercial customers up to 100kW in ComEd's territory and 150kW in Ameren's territory.

In order to address concerns expressed by the utilities at the last workshop, we want to get feedback on using language similar to the modifications to the statutory definition of "small commercial customer" of a natural gas utility found in the recent natural gas legislation (SB0171). We are interested in receiving specific suggestions for the following:

"Small commercial customer" means a nonresidential retail customer of an electric utility who consumed 15,000 kilowatt-hours of electricity or less during the previous year; provided that any ARES may remove the customer from designation as a "small commercial customer" if the customer consumes more than 15,000 kilowatt-hours of electricity in any calendar year after becoming a customer of the ARES. In

determining whether a customer has consumed 15,000 kilowatt-hours of electricity or less during the previous year, usage by the same commercial customer shall be aggregated to include usage at the same premises even if measured by more than one meter, and to include usage at multiple premises. Nothing in this Section creates an affirmative obligation on an electric utility to monitor or inform customers or ARES as to a customer's status as a small commercial customer as that term is defined herein. Nothing in this Section relieves an electric utility from any obligation to provide information upon request to a customer, ARES, the Commission, or others necessary to determine whether a customer meets the classification of small commercial customers as that term is defined herein.

## **Section I: Marketing Practices / Enrollment**

### **1. Training of ARES sales agents**

All sales agents engaged in sales activity in Illinois (whether directly employed by the ARES or otherwise exclusively selling the ARES's service) shall be knowledgeable of these Retail Electricity Requirements and other relevant requirements contained in The Public Utilities Act, The Consumer Fraud and Deceptive Business Practices Act and Illinois Administrative Code 410 that pertain to the marketing and sales of electric supply service. All sales agents should be familiar with the ARES's products and services, including the rates, applicable termination fees if any, payment options and the customers' right to cancel. In addition, the sales agents shall have the ability to provide the customer with a toll-free number for billing questions, disputes, and complaints, as well as the Commission's toll-free phone number for complaints. An ARES and its sales agents shall not utilize false, misleading, materially inaccurate, or otherwise deceptive language or materials in soliciting or providing services.

## **2. Do Not Contact List**

An ARES and its sales agents shall refrain from any direct marketing or soliciting of electric supply service to customers on the electric utility's "Do Not Contact List", which the ARES shall obtain on the 15th calendar day of the month from the electric utility. If the 15th calendar day is a non-business day then the ARES shall obtain the list on the next business day following the 15th calendar day of that month. The "Do Not Contact List" maintained by the electric utility shall contain the customer's name, address, and phone number(s).

## **3. Records Retention and Availability**

(i) An ARES must retain, for a minimum of two years or for the length of the sales contract whichever is longer, verifiable proof of authorization to change suppliers for each customer. Authorization records need to be provided by the ARES within seven business days after a request is made by the Commission or Commission Staff.

(ii) Throughout the duration of the contract, and for two years thereafter, the ARES shall retain and, within seven business days of the customer's request, provide the customer a copy of the sales contract via e-mail, U.S. mail, or facsimile.

## **4. In-Person Marketing**

(i) Sales agents who contact customers in person at a location other than the ARES's place of business for the purpose of selling any product or service offered by the ARES are required to produce identification, to be visible at all times, which a) prominently displays in reasonable size type face the full name of the sales agent, b) displays a photograph of the sales agent and c) depicts the legitimate trade name and logo of the ARES they are

representing. This identification has to be presented as soon as possible and prior to describing any products or services offered by the ARES.

(ii) If a customer elects to enroll with the ARES, the sales agent must read to the customer all items within the uniform disclosure statement. The minimum list of items to be included in the disclosure statement is contained in the uniform disclosure requirements section below. If a fixed bill product is being offered, the sales agent must explain to the customer that the fixed bill amount is for supply charges only and that it does not include delivery service charges and applicable taxes; therefore the fixed bill amount is not the total monthly amount for electric service. If a customer enrolls by signing a Letter of Authorization, the sales agent must require the customer to initial the written uniform disclosure statement, of which a copy is to be left with the customer at the conclusion of the sales visit. The uniform disclosure statement can be either part of the first page of the sales contract or a separate document. If a customer's enrollment is authorized by a third party verification as a result of in-person marketing, the third party verifier must require the customer to verbally acknowledge that he or she understands the uniform disclosure statement, and that a copy of the uniform disclosure statement was left with the customer. If the customer's enrollment is authorized on-line, the requirements of Section I.7 shall apply.

(iii) Where it is apparent that the customer's English language skills are insufficient to allow the customer to understand and respond to the information conveyed by the sales agent or where the customer or another third party informs the sales agent of this circumstance, the sales agent shall either find a representative in the area who is fluent in the customer's language to continue the marketing activity in his/her stead, use an interpreter at the premise, or terminate the in-person contact with the customer. When the use of an interpreter is necessary, a form consistent with Section 2N of the Consumer Fraud and Deceptive Business Practices Act must be completed. The sales agent shall leave the premises of a customer when requested to do so by the customer or the owner or occupant of the premises. The sales agent must add the person's name to the ARES's "Do Not Contact List" upon that person's request.

## **5. Telemarketing**

- (i) In addition to complying with 815 ILCS 15 (Telephone Solicitations Act), ARES sales agents who contact customers by telephone for the purpose of selling any product or service shall provide the sales agent's name and, on request, the identification number;
- (ii) Where it is apparent that the customer's English language skills are insufficient to allow the customer to understand, and the customer or another third party informs the ARES sales agent of this circumstance, the sales agent must immediately transfer the customer to a representative who speaks the customer's language, if such a representative is available, or terminate the call.
- (iii) If a customer elects to enroll with the ARES, the sales agent must read to the customer all items within the uniform disclosure statement. The minimum list of items to be included in the disclosure statement is contained in the uniform disclosure requirements section below. If a fixed bill product is being offered, the sales agent must explain to the customer that the fixed bill amount is for supply charges only and that it does not include delivery service charges and applicable taxes; therefore the fixed bill amount is not the total monthly amount for electric service. If third party verification is used to authorize a customer's enrollment, the third-party verifier must require the customer to verbally acknowledge that he or she understands the uniform disclosure statement. The written disclosure statement and sales contract must be mailed to the customer within 3 business days of the utility confirmation of accepted enrollment. The uniform disclosure statement can be either part of the first page of the sales contract or a separate document. If a customer elects to enroll on-line as a result of an outbound telemarketing call, the requirements of Section 1.7 shall apply.
- (iv) If a customer initiates a call to an ARES, the ARES must follow the requirements

in 815 ILCS 505/2EE (c) in addition to reading the customer all the items included in the uniform disclosure statement. The minimum list of items to be included in the disclosure statement is contained in the uniform disclosure statement below. The ARES must also require the customer to verbally acknowledge that he or she understands the uniform disclosure statement. The written disclosure statement and sales contract must be mailed to the customer within 3 business days of the utility confirmation of accepted enrollment.

## **6. Direct Mail**

Each ARES that contacts customers for enrollment by direct mail shall include a uniform disclosure statement for the product or service being solicited. The minimum list of items to be included in the disclosure statement is contained in the uniform disclosure requirements section below. If a written Letter of Agency is being used to verify the subscriber change, it shall contain a statement that the customer has read and understood the terms and conditions contained in the uniform disclosure statement. The uniform disclosure statement must be printed on a document that will stay with the customer and is not required to be mailed back to the ARES. If third party verification is used to obtain the customer's authorization for enrollment, the third party verifier must comply with 815 ILCS 15 (Telephone Solicitations Act) and require the customer to verbally acknowledge that he or she understands the uniform disclosure statement for this product. If a customer elects to enroll on-line as a result of an outbound telemarketing call, the requirements of Section I.7 shall apply.

## **7. Online Marketing**

i) Each ARES that offers retail electric products for enrollment on its website shall prominently display the uniform disclosure statement for any products offered without the consumer having to enter any personal information other than zip code, utility service territory, and type of service being sought (residential or commercial). The uniform

disclosure statement must be printable in no more than a two page format and shall be available for downloading by the customer.

ii) The ARES shall obtain, in accordance with the procedures outlined below, an authorization to change ARES that confirms and includes appropriate verification data by encrypted customer input on a supplier's Internet web site.

(iii) The ARES shall require the following customer information in an electronic authorization form:

(iii) The ARES shall require completion or verification of the following customer information in an electronic authorization form: (Language provided by Rick Zollars)

- (1) The customer's name;
- (2) Confirmation that the person completing the form is authorized to make the supplier change;
- (3) Confirmation that the person completing the form wants to make the supplier change;
- (4) The customer's consent to the price of the service to be supplied and the material terms and conditions of the service being offered;
- (5) The service address affected by the supplier switch;
- (6) The utility account number;
- (7) The billing address if different from service address; and
- (8) The customer's electronic mail address.

(iv) The Internet enrollment website shall, at a minimum, include:

- (1) All items within the uniform disclosure statement. The minimum list of items to be included in the disclosure statement is contained in the uniform disclosure requirements section below.
- (2) A statement that electronic acceptance of a sales contract is an agreement to initiate

service and begin enrollment.

(3) A statement that if the customer is currently with an ARES other than the utility, the customer should consult the sales contract and/or contact the existing supplier to learn if any early termination fees are applicable.

(4) A requirement that the customer accept or not accept the sales contract by clicking the appropriate box, displayed as part of the terms and conditions.

(5) Confirmation that the customer has been enrolled with an identification number and date to allow the customer to verify the specific sales agreement to which the customer assents.

(6) A conspicuous prompt for the customer to print or save a copy of the contract.

(7) An option for the customer to request a hard copy of the sales contract by U.S. mail.

(8) An e-mail address where the customer can express his or her decision to rescind the sales contract.

## **Section II: Rescission/Deposits/Early Termination and Automatic Renewal of Contract**

### **1. Rescission of sales contract**

Within one business day after accepting a valid electronic enrollment request from the ARES, the electric utility will notify the customer in writing of the scheduled enrollment and the name of the ARES that will be providing power and energy service. If the customer wishes to rescind its enrollment with the supplier, the customer will not incur any early termination fees if the customer contacts either the electric utility or the ARES within ten calendar days of the electric utility's processing of the enrollment request. If the tenth calendar day falls on a non-business day the rescission period will be extended through the next business day. The written enrollment notice from the electric utility will state the last day for making a request to rescind the enrollment.



## **2. Deposits**

An ARES shall not require a customer deposit if the ARES is selling the receivables for that customer to the electric utility pursuant to Section 16-118(c) of the Act.

## **3. Early Termination Fee**

Any agreement that contains an early termination fee shall disclose the amount of the early termination fee or the formula used to calculate the termination fee. It must also state that the early termination fee does not apply if the customer cancels the contract within the rescission period described above. In addition, any agreement that contains an early termination fee shall provide the customer the opportunity to terminate the agreement without any termination fee or penalty within 10 business days after the date of the first bill issued to the customer for products or services provided by the ARES.

## **4. Contract expiration and renewal offers**

(i) **Contract Expiration.** The ARES shall send a notice of contract expiration separate from the bill at least 45 days prior to the date of contract expiration but no more than 60 days in advance of expiration. Nothing in this section shall preclude an ARES from offering a new contract to the customer at any other time during the contract period. The separate written notice of contract expiration shall include:

- (1) a statement on the outside of the envelope or in the subject line of the email (if customer has agreed to receive official documents by e-mail) that states, "Contract Expiration Notice;"
- (2) the date the existing contract will expire;
- (3) For contracts with a term greater than six months, a statement in bold lettering no smaller than 12 point font that no termination fee shall apply 31 days prior to the date stated as the

expiration date in the notice. No such statement is required if the customer is not subject to early termination fees.

i) The ARES shall send a notice of contract expiration separate from the bill at least 30 days prior to the date of contract expiration but no more than 60 days in advance of expiration. Nothing in this section shall preclude an ARES from offering a new contract to the customer at any other time during the contract period.

ii) The separate written notice of contract expiration shall include:

(1) a statement printed or visible from the outside of the envelope or in the subject line of the email (if customer has agreed to receive official documents by e-mail) that states, "Contract Expiration Notice;"

(2) the date the existing contract will expire;

(3) A statement in bold lettering no smaller than 12 point font that establishing service with another electric supplier can take up to 45 days, and failure to enter into a new contract or switch to another ARES by the specified date will result in the customer being reverted to the utility default service and provide in the statement the length of the utility tariff minimum stay period if applicable. (Language provided by Theresa Ringenbach)

ii) **Renewal Offers.** In the renewal offer the ARES shall include:

(1) The contract terms including the full description of any renewal offers available to the customer; and what if any affirmative action the customer needs to take by the specified date to continue to receive service from the ARES under the terms of the renewal offer;

(2) A statement in bold lettering no smaller than 12 point font that establishing service with another ARES can take up to 45 days, and failure to renew their existing contract or switch to another ARES by the specified date will result in the customer being reverted to the utility default service for 12 months.

## **Contract Renewal**

i) The ARES shall clearly disclose any renewal terms in their contract including any cancellation procedure.

ii) The ARES shall send a notice of contract renewal separate from the bill at least 30 days prior to the date of contract expiration but no more than 60 days in advance of expiration.

Nothing in this section shall preclude an ARES from offering a new contract to the customer at any other time during the contract period.

ii) The separate written notice of contract renewal shall include:

(1) a statement printed or visible from the outside of the envelope or in the subject line of the email (if customer has agreed to receive official documents by e-mail) that states, "Contract Renewal Notice;"

(2) the date service under the new term will begin;

(3) Clearly disclose the contract terms including a full description of any renewal offers available to the customer; and any material changes in the terms and conditions including pricing, termination or other fees, and products.

In addition:

iii) Contracts with a renewal term greater than six months, with an early termination fee greater than the original contracted termination fee or with a calculated termination fee:

(1) Must provide for affirmative consent;

(2) a statement in no smaller than 12 point font that the customer must provide affirmative consent to accept the renewal offer and that establishing service with another electric supplier can take up to 45 days, and failure to renew their existing contract or switch to another ARES by the specified date will result in the customer being reverted to the utility default service and provide in the statement the length of the utility tariff minimum stay period if applicable. (Language provided by Theresa Ringenbach)

( iii) **Automatic Renewal** If a customer's sales contract includes an automatic renewal clause, an ARES may automatically renew the customer consistent with the automatic renewal clause in the contract and consistent with all the relevant provisions outlined in this section and 815

ILCS 601/10 (Automatic Contract Renewal Act). The pricing for an automatic renewal after the term of the original contract may be different than the pricing for the original term, but must be communicated to the customer and permitted by this section and consistent with the original contract.

(1) For contracts with an automatic renewal term greater than six months, with renewal contract early termination fee less than or equal to that in the existing contract,

A) A statement in bold lettering no smaller than 12 point font that the contract will automatically renew unless the customer cancels it including the information needed to cancel.

B) If the new contract term includes a termination fee, a statement that the customer has from the date of the contract renewal notice through the end of the existing contract term to notify the ARES of their rejection of the new contract term to avoid incurring a termination fee under the new contract term.

C) A statement that if the customer takes no action by the specified date they will continue to receive service from the ARES under the terms of the renewal offer;

D) A statement in bold lettering no smaller than 12 point font that establishing service with another electric supplier can take up to 45 days, and failure to renew their existing contract or switch to another ARES by the specified date will result in the customer being reverted to the utility default service and provide in the statement the length of the utility tariff minimum stay period if applicable.

(2) For contracts with an automatic or other renewal term less than six months

A) A statement in bold lettering no smaller than 12 point font that the contract will automatically renew unless the customer cancels it including the information needed to cancel.

B) If the new contract term includes a termination fee, a statement that the customer has from the date of the contract renewal notice through the end of the existing contract term to notify the ARES of their rejection of the new contract term to avoid incurring a termination fee under the new contract term.

C) The contract terms including the full description of any renewal offers available to the customer; and a statement that if the customer takes no action by the specified date they will continue to receive service from the ARES under the terms of the renewal offer;

D) A statement in bold lettering no smaller than 12 point font that establishing service with another electric supplier can take up to 45 days and failure to renew their existing contract or switch to another ARES by the specified date will result in the customer being reverted to the utility default service and provide in the statement the length of the utility tariff minimum stay period if applicable. (Language provided by Theresa Ringenbach)

## 5. Assigning customers to a different supplier

The ARES must not assign the agreement to a different ARES unless:

- (1) the new supplier is an ARES certified by the Commission and is registered with the electric utility;
- (2) the rates, terms, and conditions of the agreement being assigned do not change during the remainder of the time covered by the agreement; or if the rates or material terms and conditions do change, the customer agrees in writing to the change in any material term or condition or, can switch suppliers with no early termination fee, if the customer is assigned to a different supplier; (provided by Sandy Guthorn)
- (3) the customer is given no less than 30 days prior written notice of the assignment and contact information for the new supplier; and
- (4) the supplier assigning the contract provides the customer with contact information for billing questions, disputes, and complaints.

## 4. Assigning customers to a different ARES

If an ARES is exiting the Illinois retail electric market, surrendering or otherwise cancelling its certificate of service authority, or no longer seeking to serve certain classes of customers, the ARES must not assign the agreement to a different ARES unless:

- (1) the new supplier is an ARES certified by the Commission or an electric utility operating outside its service territory (RES),
- (2) the new ARES is in compliance with all other applicable requirements of the Commission and/or the electric utility to provide electric service;

(3) the rates, terms, and conditions of the agreement being assigned do not change during the remainder of the time period covered by the agreement; provided however, the assigned agreement may be modified during the term of the agreement if the new ARES and the retail customer mutually agree to such changes or revisions of the agreement after assignment of the agreement;

(4) the customer is given fifteen (15) calendar days prior written notice of the assignment by the current ARES; and

(5) within thirty (30) days after the assignment, the new ARES provides the customer with a toll-free phone number for billing questions, disputes, and complaints.

5. The aforementioned requirements do not apply to transactions where a certified ARES, or an electric utility operating outside of its service territory, has entered into an agreement for the sale, purchase, or any other transfer of ownership of all retail contracts with customers or a defined subset of such customer segments to another ARES certified by the Commission, or an electric utility operating outside of its service territory. (Language provided by David Fein)

### **Section III: Uniform Disclosure Requirements**

In addition to providing a copy of the sales contract, ARES must disclose the following information prior to enrolling the customer, regardless of the form of marketing used. The written uniform disclosure statement must use a font of 12 point or larger and, if a separate document, must not exceed two pages in length.

- 1) The legal name of the ARES;
- 2) The ARES's address;
- 3) The ARES's toll free telephone number for billing questions, disputes, and complaints;
- 4) The charges for the service for the length of the contract: if any charges are variable during the term of the contract, an explanation of how the variable charges are determined;
- 5) The length of the agreement including the automatic renewal clause, if any;

- 6) The presence or absence of early termination fees or penalties, and applicable amounts or the basis on which they are calculated;
- 7) For an ARES using Dual Billing or SBO, any possible requirement to pay a deposit, the estimated amount of the deposit or basis on which it is calculated, when the deposit will be returned, and if the deposit will accrue interest;
- 8) Any fees to the applicant for switching to the ARES;
- 9) The name of the electric service offering for which the customer is being solicited;
- 10) A statement that the customer may rescind the agreement within ten calendar days of the utility processing the enrollment request by calling either the ARES or the utility and provide both phone numbers;
- 11) A statement that the ARES is an independent seller of electricity and that the ARES is not representing or acting on behalf of the electric utility, governmental bodies, or consumer groups;
- 12) A statement that the utility will continue to deliver the electricity to the customer's premise and will continue to respond to any service calls and emergencies;
- 13) A statement that the customer will receive written notification from the utility confirming the switch of suppliers;
- 14) If savings are guaranteed, or guaranteed under only certain circumstances, the ARES must provide a written statement which includes a plain language description of the conditions that must be present in order for the savings to occur; and
- 15) For products where a customer's charges are a fixed amount per billing period regardless of the market price for natural gas or the customer's natural gas consumption during the billing period, the billing period covered. In addition, it must state that the fixed bill amount is for supply charges only and does not include delivery service charges and applicable taxes; therefore the fixed bill amount is not the total monthly amount for electric service.

## **Section IV: Dispute Resolution/Customer Complaint Reports**

### **1. Required ARES information**

The ARES shall provide Commission Staff with a copy of its bill formats (if it bills customers directly rather than using utility consolidated billing), standard customer contract and customer complaint and resolution procedures. It should also provide the name and telephone number of the company representative whom Commission employees may contact to resolve customer complaints and other matters. In any dispute between a customer and an ARES concerning the terms of a contract, any vagueness, obscurity, or ambiguity in the contract will be construed in favor of the customer. The supplier must file updated information within 10 business days after changes in any of the documents or information required to be filed by this section.

### **2. Dispute Resolution**

(i) **Complaint handling.** A residential or small commercial customer has the right to make a formal or informal complaint to the Commission, and an ARES contract cannot impair this right. An ARES shall not require a residential or small commercial customer as part of the terms of service to engage in alternative dispute resolution, including requiring complaints to be submitted to arbitration or mediation by third parties. A customer other than a residential or small commercial customer may agree as part of the terms of service to engage in alternative dispute resolution, including requiring complaints to be submitted to arbitration or mediation by third parties. However, nothing in this subsection is intended to prevent a customer other than a residential or small commercial customer to file an informal or formal complaint with the Commission if dissatisfied with the results of the alternative dispute resolution.



(ii) **Complaints to ARES.** A customer or applicant for service may submit a complaint by mail, facsimile transmission, e-mail, or by telephone to an ARES. The ARES shall promptly investigate and advise the complainant of the results within 14 calendar days. If the ARES does not respond to the customer's complaint in writing, the ARES shall orally inform the customer of the ability to obtain the ARES's response in writing upon request. A customer who is dissatisfied with the ARES's review shall be informed of the right to file a complaint with the Commission and the Office of Attorney General.

(iii) **Complaints to the Commission.**

(1) **Informal complaints.**

(A) If a complainant is dissatisfied with the results of an ARES's complaint investigation, the ARES shall inform the complainant of their ability to file a complaint with the Illinois Commerce Commission's Consumer Services Division and provide the following contact information: Illinois (toll-free) (800) 524-0795, from out-of-state (217) 782-2024, website address: [www.icc.illinois.gov](http://www.icc.illinois.gov), TTY (800) 858-9277, fax (217) 524-6859. Complaints may be filed with the Consumer Services Division by phone, via the internet, by fax or by mail. Information required to process a customer complaint include:

- (i) The customer's name, billing and service addresses, and telephone number;
- (ii) The name of the ARES;
- (iii) The customer account number;
- (iv) An explanation of the facts relevant to the complaint;
- (v) The complainant's requested resolution; and
- (vi) Any documentation that supports the complaint, including copies of bills or terms of service documents.

(B) The Commission's Consumer Services Division may resolve a complaint via phone by completing a call between the customer, the Consumer Services staff and the supplier. If no resolution is reached by phone, and a dispute remains, an informal complaint may be sent to the ARES. Three-way calling may not be available or Consumer Services staff may determine a three-way call is not the best method to handle the customer's complaint in which

case an informal complaint will be sent to the ARES. In the case of utility-consolidated billing and the utility purchasing the supplier's receivables, the ARES shall notify the utility of any informal complaint received and the utility shall cancel disputed supplier charges and remove those charges from the customer's bill.

(C) All ARESs shall provide the Commission with an email address to receive notification of customer complaints from the Commission.

(D) The ARES shall investigate all informal complaints and advise the Commission in writing of the results of the investigation within 14 days after the complaint is forwarded to the ARES.

(E) The Commission shall review the complaint information and the ARES's response and notify the complainant of the results of the Commission's investigation.

(F) While an informal complaint process is pending:

(1) The ARES (or the electric utility in the case of utility-consolidated billing) shall not initiate collection activities for any disputed portion of the bill.

(2) A customer shall be obligated to pay any undisputed portion of the bill and the ARES (or the electric utility in the case of utility-consolidated billing) may pursue collection activity for nonpayment of the undisputed portion after appropriate notice.

(G) The ARES shall keep a record for two years after closure by the Commission of all informal complaints forwarded to it by the Commission. This record shall show the name and address of the complainant, the date, nature and adjustment or disposition of the complaint.

Please comment on the desirability of using the following language for informal complaints, which is similar to that found in SB0171 :

No ARES shall bill for a disputed amount where the alternative electric supplier has been provided notice of such dispute. The supplier shall attempt to resolve a dispute with the customer. When the dispute is not resolved to the customer's satisfaction, the supplier shall inform the customer of the right to file an informal complaint with the Commission and provide contact information. While the pending dispute is active at the Commission, an alternative electric supplier (or the electric utility in the case of utility-consolidated billing) may bill only for the undisputed amount until the Commission has taken final action on the complaint.

**(2) Formal complaints.**

If the complainant is not satisfied with the results of the informal complaint process, the complainant may file a formal complaint with the Commission within two years of the date on which the Commission closes the informal complaint.

**3. Disclosure of ARESs' level of customer complaints**

The Commission shall, on a quarterly basis, prepare a summary of all formal and informal complaints received and publish it on its World Wide Web site. The summary shall be in an easy-to-read and user friendly format. The Commission shall develop a ranking system of individual ARES' complaints ratios in comparison with an ARES-wide complaint ratio, as well as the associated ranking methodology.

**Section V: Enforcement**

If the Commission Staff or other party believes that an ARES has repeatedly violated the requirements above, the following additional expedited procedures may be used to enforce these requirements. However, the complainant, the respondent, and the Commission may mutually agree to adjust the procedures established below. No complaint may be filed under

this provision until the complainant has first notified the respondent of the alleged violation and offered the respondent 48 hours to correct the situation.

(i) Reasonable discovery specific to the issue of the complaint may commence upon filing of the complaint. Requests for discovery must be served in hand and responses to discovery must be provided in hand to the requester within 14 days after a request for discovery is made.

(ii) An answer and any other responsive pleading to the complaint shall be filed with the Commission and served in hand upon the complainant within 7 days after the date on which the complaint is filed.

(iii) A pre-hearing conference shall be held within 14 days after the date on which the complaint is filed.

(iv) The hearing shall commence within 30 days of the date on which the complaint is filed. The hearing may be conducted by a hearing examiner or by an arbitrator. Parties shall be entitled to present evidence and legal argument in oral or written form as deemed appropriate by the hearing examiner or arbitrator. The hearing examiner or arbitrator shall issue a written decision within 60 days after the date on which the complaint is filed. The decision shall include reasons for the disposition of the complaint and, if a repeated violation is found, directions and a deadline for correction of the violation.

(v) Any party may file a petition requesting the Commission to review the decision of the hearing examiner or arbitrator within 5 days of such decision. Any party may file a response to a petition for review within 3 business days after actual service of the petition. After the time for filing of the petition for review, but no later than 15 days after the decision of the hearing examiner or arbitrator, the Commission shall decide to adopt the decision of the hearing examiner or arbitrator or shall issue its own final order.

(vi) The complainant may include in its complaint a request for an order for emergency relief. The Commission, acting through its designated hearing examiner or arbitrator, shall act upon such a request within 2 business days of the filing of the complaint. An order for emergency relief may be granted, without an evidentiary hearing, upon a verified factual showing that the

party seeking relief will likely succeed on the merits and that the order is in the public interest. An order for emergency relief shall include a finding that the requirements of this subsection have been fulfilled and shall specify the directives that must be fulfilled by the respondent and deadlines for meeting those directives. The decision of the hearing examiner or arbitrator to grant or deny emergency relief shall be considered an order of the Commission unless the Commission enters its own order within 2 calendar days of the decision of the hearing examiner or arbitrator. Any action required by an emergency relief order must be technically feasible and economically reasonable and the respondent must be given a reasonable period of time to comply with the order.

(vii) In determining the appropriate consequence for a violation, the Commission may take into account the nature, the circumstances, including the scope of harm to individual customers, and the gravity of the violation, as well as the ARES's history of previous violations.

(viii) Consequences for violating one or more of the requirements above may include one or more of the following restrictions on an ARES's opportunity to sell electricity to retail customers:

- (a) Suspension from a specific Commission approved retail program in either a specific utility service territory or all of Illinois;
- (b) Suspension of the ability to enroll new customers in either a specific utility service territory or all of Illinois;
- (c) Imposition of a requirement to record all telephonic marketing presentations, which shall be made available to Commission Staff for review;
- (d) Reimbursements to customers who did not receive savings promised in the ARES's sales contract/uniform disclosure statement or substantially demonstrated to have been included in the ARES's marketing materials or to customers who incurred costs as a result of the ARES's failure to comply with the requirements set forth above;
- (e) Release of customers from sales contracts without imposition of early termination fees;
- (f) Revocation of an ARES's eligibility to operate in Illinois;
- (g) Any other measures that the Commission may deem appropriate.

(h) Consequences imposed pursuant to this paragraph shall continue to apply until the ARES's failure to comply has been cured or the Commission or Commission Staff has determined that no further cure is necessary.